

By: Duncan

S.B. No. 1637

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of the Railroad Commission of Texas to  
3 determine whether a person who owns, operates, or manages a  
4 pipeline is a common carrier.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 111, Natural Resources Code, is amended  
7 by adding Subchapter K to read as follows:

8 SUBCHAPTER K. COMMON CARRIER DETERMINATION

9 Sec. 111.441. COMMON CARRIER. (a) No pipeline or  
10 gathering system may be represented to be a common carrier under  
11 Section 111.002 without a permit issued by the commission under  
12 this subchapter.

13 (b) The commission has exclusive jurisdiction to determine  
14 whether a person is a common carrier under Section 111.002.

15 Sec. 111.442. APPLICATION. (a) A party wanting to obtain  
16 a permit under this subchapter must submit an application to the  
17 commission.

18 (b) Application shall be made on a form specified by the  
19 commission and shall include evidence required by the commission to  
20 show that the applicant qualifies as a common carrier under Section  
21 111.002.

22 Sec. 111.443. NOTICE. (a) For permits requested under  
23 this subchapter, the applicant shall give notice by:

24 (1) publishing notice of the application and a map of

1 the proposed route of the pipeline on the Internet;

2 (2) publishing notice of the application for two  
3 consecutive weeks in a newspaper having general circulation in each  
4 county containing territory affected by the proposed pipeline;

5 (3) mailing notice of the application to all  
6 landowners along the proposed route of the pipeline; and

7 (4) mailing or delivering notice of the application to  
8 each affected county and municipality along the proposed route of  
9 the pipeline.

10 (b) Proof of publication and affidavits attesting to the  
11 notice requirements must be filed with the commission.

12 (c) At a minimum, the notice must include:

13 (1) a description of the point of origin and point of  
14 destination of the pipeline;

15 (2) a list of the counties and municipalities in which  
16 the pipeline is proposed to be located;

17 (3) the Internet address required under Subsection  
18 (a); and

19 (4) a description of the procedure for protesting the  
20 request, including the deadline provided under Section 111.444.

21 Sec. 111.444. PROTESTS. (a) A landowner, county,  
22 municipality, or commission staff may file a protest with the  
23 commission.

24 (b) All protests must be filed not later than the 20th day  
25 after the date of notice under Section 111.443.

26 Sec. 111.445. HEARING. (a) The commission shall set a  
27 date, time, and place for a hearing not later than the seventh day

1 after the protest deadline date provided under Section 111.444.

2 (b) The hearing shall be held not earlier than the 30th day  
3 and not later than the 45th day after the protest deadline date.

4 (c) The commission shall serve notice of the hearing date,  
5 time, and place to the applicant and to all parties filing protests.

6 Sec. 111.446. ADMINISTRATIVE REVIEW. An application under  
7 this subchapter may be approved by a hearings examiner without a  
8 hearing under the following conditions:

9 (1) at least 30 days have passed since the completion  
10 of all notice requirements;

11 (2) no party has filed a protest with the commission;

12 (3) the commission staff has reviewed the application  
13 and has stipulated that there are no disputed issues of fact or law;  
14 and

15 (4) the hearings examiner finds that no hearing is  
16 necessary and that administrative review is warranted.

17 Sec. 111.447. PROPOSAL FOR DECISION; COMMISSION ORDER.

18 (a) Not later than the 20th day after the date of the hearing  
19 conducted under Section 111.445 or a determination of  
20 administrative review under Section 111.446, the hearings examiner  
21 shall issue a proposal for decision containing findings of fact and  
22 conclusions of law. The proposal for decision shall be served on  
23 each commissioner and all parties.

24 (b) The commission shall issue an order on the application  
25 not later than the 30th day after receipt of the proposal for  
26 decision. The order must include:

27 (1) a statement of findings of fact that includes the

1 substance of the evidence presented at the hearing; and

2 (2) the conclusions of law that support the  
3 determination.

4 (c) The commission may approve an application and grant a  
5 permit only if the commission finds that the applicant qualifies as  
6 a common carrier under Section 111.002.

7 (d) The commission may adopt, in whole or in part, or modify  
8 the findings of fact and conclusions of law contained in the  
9 proposal for decision. The commission may also remand the  
10 application for hearing or additional proceedings.

11 (e) Motions for rehearing and judicial review of a  
12 commission order issued under this subchapter are governed by  
13 Subchapters F and G, Chapter 2001, Government Code.

14 Sec. 111.448. RULES. The commission may adopt rules as  
15 necessary to implement this subchapter.

16 SECTION 2. The changes in law made by this Act relating to a  
17 permit to operate a pipeline apply only to a permit the application  
18 for which is filed with the Railroad Commission of Texas on or after  
19 the effective date of this Act. A permit the application for which  
20 was filed before the effective date of this Act is governed by the  
21 law in effect on the date the application was filed, and the former  
22 law is continued in effect for that purpose.

23 SECTION 3. This Act takes effect September 1, 2013.